RECENT IMPORTANT DECISIONS

ACCRETION—TITLE TO NEW LAND—ENCROACHMENT OF WATERCOURSE UPON LANDS BEYOND.—D's lands were bounded on the east by a river and on the west by the land of P. By erosion the river slowly shifted until all of D's tract was washed away as well as part of P's holding. The river then slowly receded and the land of P was built up as was also new land east of the former boundary of P and D. P brings an action to quiet title for the land newly formed. *Held,* title to the land in dispute rested in P. *Yearsley* v. *Gipple,* (Nebr., 1919) 175 N. W. 641.

D, though accepting the general principal of accretion, contended that the doctrine did not apply to lands the boundary of which is fixed and definite as in the case of property not originally riparian. This contention is not without authority. *Volcanic Oil and Gas Co.* v. *Chaplin,* 27 Ont. L. Rep. 34; *Allard* v. *Curran,* 168 N. W. 761; *Gilbert* v. *Eldridge,* 47 Minn. 210; *Ocean City Ass'n.* v. *Shriver,* 64 N. J. L. 550. This view however has been denied in the following cases: *Welles* v. *Bailey,* 55 Conn. 292; *Peuker* v. *Canter,* 62 Kan. 363; *Widdecomb* v. *Chiles,* 173 Mo. 195. The principal case follows the latter authorities and refuses to distinguish the case where the boundary is a fixed line and from it's very nature is unshiftable. Under this view land entirely landlocked may acquire the privileges and liabilities of riparian land by means of the action of the forces of nature. See 17 MICH. L. REV. 95; see also 26 HARV. L. REV. 185.

ADOPTION—DESCENT AND DISTRIBUTION IN RELATION TO AN ADOPTED CHILD.—An intestate left surviving him two sons of his deceased sister and an adopted son of his deceased brother. The adopted son claimed, by right of representation, one-half of the estate as heir of the intestate under § 3964, WYOMING COMPILED STATUTES, which provides, that an adopted child "* * * shall be entitled to the same rights of person and property as children or heirs at law of the persons thus adopting them, unless the rights of property should be excepted in the agreement of adoption." *Held,* that the adopted son was entitled to one-half of the estate. *In re Cadwell's Estate,* (Wyo., 1920), 186 Pac. 499.

Adoption was unknown to the common law, and hence, the legal status of an adopted child is determined entirely by statute. *Albring* v. *Ward,* 137 Mich. 352; PECK, DOMESTIC RELATIONS, § 106. The statutes generally provide that the adopted child may inherit from the adopting parents. *Morrison* v. *Sessions,* 70 Mich. 297; STIMSON, AM. ST. LAW, § 6647A. Although his right to inherit from his natural kindred is not thereby destroyed. *In re Darling's Estate,* 173 Cal. 221; 15 MICH. L. REV. 161. Since all the rights in favor of the adopted child exist solely by statute, it has generally been held, in the absence of special provision in the statute, that the adopted child cannot inherit from the kindred of the adopting parent. *Wallace* v. *Noland,* 246 Ill. 535, 545; *In re Leask,* 197 N. Y. 193. In accord with this view, and contrary

to the decision in the principal case, it has been held that the adopted child will not take by descent from a brother of his deceased adopting parent. *Van Derlyn* v. *Mack,* 137 Mich. 146; *Hockaday* v. *Lynn,* 200 Mo. 456. Nor from the father of such parent. *Quigley* v. *Mitchell,* 41 Ohio St. 375. Nor, the mother of such parent. *Meader* v. *Archer,* 65 N. H. 214; *Merritt* v. *Morton,* 143 Ky. 133. Nor from the grandson of the adopting parent. *Helm's Adm'r.* v. *Elliott,* 89 Tenn. 446. The decision in the principal case, therefore, must depend solely upon some decisive distinction between the statute upon which it rests and the statutes of other states,—especially in the absence of a special provision for inheritance from kindred. As to the devolution of the estate of an adopted child, it is universally held that the estate will descend to his issue. In default of issue, some states give the estate to the natural kindred of the adopted child. *Reinders* v. *Koppleman,* 68 Mo. 482; *Baker* v. *Clowser,* 158 Ia. 156. But the better view seems to be that the estate should go to the adopting parents or their kindred. *Paul* v. *Davis,* 100 Ind. 422; *Estate of Jobson,* 164 Cal. 312. It has been held that the issue of an adopted child may inherit direct from the adopting parents by representation. *Pace* v. *Klink,* 51 Ga. 220. But see, *contra, In re Sunderland's Estate,* 60 Ia. 732. As to the effect of a subsequent adoption destroying all rights of inheritance under a prior adoption, see, *In re Klapp's Estate,* 197 Mich. 615, 16 MICH. L. REV. 120.

ANIMALS—RIGHT TO KILL DOG—RELATIVE VALUE OF DOG AND PROPERTY ATTACKED.—In an action for killing of P's dog, D justified on the ground that he was protecting his own valuable guinea hens. *Held,* it was a question for the jury whether the act of D was a reasonable one under the circumstances. They might consider the relative values of the dog and the guinea hens, but they should not consider "valuable qualities in the trespassing dog, whether of pedigree or training, not apparent to the observation of a man of ordinary intelligence and not ordinarily inherent in dogs of a similar appearance." *Ex parte Minor,* (Ala., 1919) 83 So. 475.

A dog was not the subject of larceny at early common law, the reason assigned being its base nature. 3 COKE, LITT., p. 295. Although this view would seem to negative the existence of a legal property in canines, courts have uniformly allowed proof of a dog's value in civil cases. *Bowers* v. *Horen,* 93 Mich. 420, (shepherd dog); *Uhlein* v. *Cromack,* 109 Mass. 273, (watch dog); *Brill* v. *Flagler,* 23 Wend. (N. Y.) 354, (well-trained setter dog). But a dog's general "character" for value may be impeached by showing that he is a sheep killer. *Dunlap* v. *Snyder,* 17 Barb. (N. Y.) 561. Where a dog is negligently killed, his pedigree may be given in proof of value. *Citizens' Rapid Transit Co.* v. *Dew,* 100 Tenn. 317. The court said, at p. 326, "* * * this particular dog killed is said to have had what, in dog circles, is regarded as 'blue blood,' and among these he belongs to the inner circle of the four hundred, a member of the F. F. T., or first families of Tennessee." But courts do not always consider the fact that the dog may be much more valuable than the property to be protected. *Leonard* v. *Wilkins,* 9 Johns (N. Y.) 233; *Simmonds* v. *Holmes,* 61 Conn. 1. It is said that a dog may be destroyed under any circumstances when it is absolutely necessary for the